

Before the
Federal Communications Commission
Washington D.C.

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In the Matter of

Amendment of Part 20 and 24 of the
Commission's Rules -- Broadband PCS

Amendment of the Commission's
Cellular PCS Cross Ownership Rule

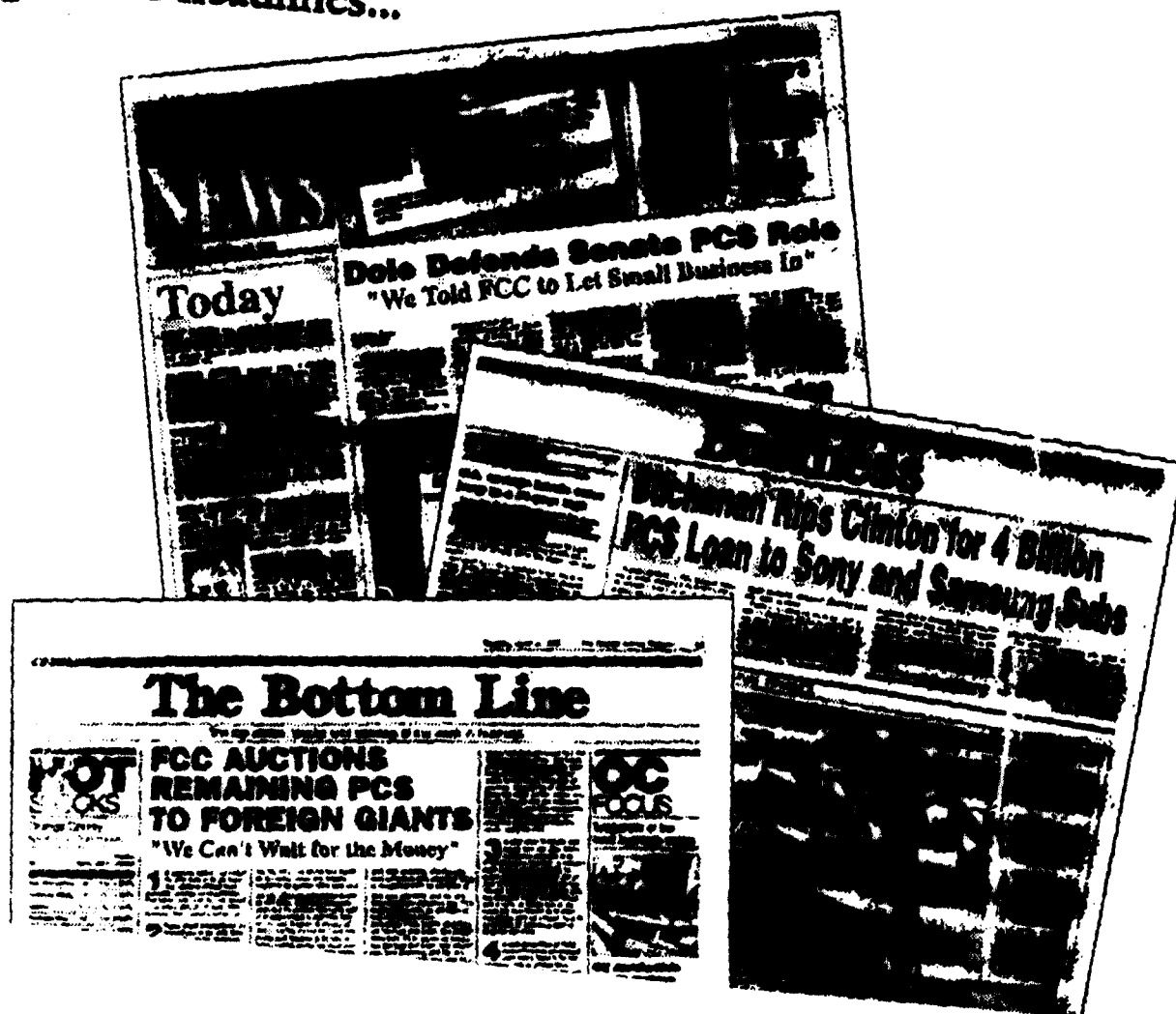
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WT Docket No. 96-59

GN Docket No. 96-314

APR 15 1996

COMMENTS OF POINT ENTERPRISES, INC.

Imagine the headlines...



Point Enterprises Chairman, John Hearne, was part of a small business, New Wave LLC, which attempted to bid in the Block C auctions. New Wave was ultimately pushed out of the bidding due to runaway prices being paid by companies backed by huge foreign corporations. The C Block was a disaster for legitimate small business because of the Commission's "control group" rules and its subsequent "leveling up" of the minority eligibility rules in the wake of Adarand. The bottom line was that any company, no matter how large, could find a "control group" and form a "small business" entity to soak up subsidized loans from the FCC to outbid legitimate small business.

Of the 254 initial bidders for the C Block, all but a couple qualified for full "small business" treatment. This occurred even for applicants financed almost entirely from "loans" and "debt instruments" from public companies as huge as Westinghouse, Hyundai, and Qualcomm. Over \$7.3 Billion in winning bids were submitted by four companies -- Nextwave, DCR, GWI and BDPCS. Of the 52 BTA markets in the U.S. with populations of one million or more, 40 of these markets were won by these same four companies. Very few, if any, of the winning bidders were from disadvantaged minority groups. There was no meaningful opportunity for minorities and legitimate small businesses in the C Block.

In considering its proposed rules for the D, E and F Blocks, the Commission should take seriously the Congressional directive to provide a meaningful opportunity for small business to participate. It should do away with the "control group" rules. They just became a vehicle for subsidizing large companies. The financial tests for "small business" should be lowered dramatically. The "leveling up" of the exception for the affiliation rules which

occurred for Block C should be abandoned. It simply widened the floodgates for the large companies. No significant "pooling of interests" occurred in Block C, and it should not be used again as a pretext for blowing open the eligibility rules.

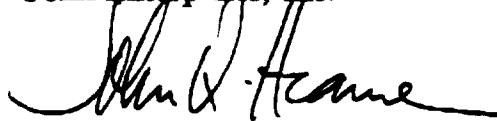
The C Block bidders should not be allowed automatic entry into the F Block. They already have 30 MHz of spectrum. They do not need 10 MHz more to provide service -- the money they would spend on the additional 10 MHz block would be better spent on eliminating microwave links to free up more of the spectrum they already have. Letting them automatically into the F Block would just allow them to eliminate additional competition and waste spectrum by not removing the prior microwave users. They can bid on the D and E Blocks instead (but should not be given installment financing for these).

The actions for D, E and F should be run concurrently. There should be no racial or gender preferences for Block F. It would be unconstitutional. Installment payments should be allowed for D and E Blocks, but only for legitimate small business -- not bidders who are backed by huge companies able to attract capital other than the FCC's subsidized loans.

In Block C, the Commission continually revised the rules to let new variations on the "control group" concept into the auction. At the end, everybody was let in, and small businesses were pushed out. Prominent minority broadcasters were pushed out. The Commission should not make the same mistake again.

Respectfully submitted,

Point Enterprises, Inc.



John Q. Hearne, Chairman